IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2230 OF 2004
IN
SUIT NO.237 OF 2003

M/s.Ultra Video Pvt. Ltd. & Anr. ...Plaintiffs
Vs.
M/s. Sunder Films & Ors. ...Defendants

Mr.R.N.Narula i/b. A.M. Sarogi for Plaintiffs

Mr.Ravi Kadam i/b. Ranjit & Co. for Defendants

CORAM: D.G. DESHPANDE,J.
DATED: 23RD NOVEMBER, 2004

P.C.

1. Heard Advocates for the Plaintiff and the Defendants. It is a case of the Plaintiff that he holds All India Video Rights in respect of the film 'Bai Chali Sasariya' under agreement by Defendant No.2 dated 26.9.1989, this agreement is referred to in the agreement of Plaintiff as link agreement. The original agreement was produced by the Advocate for the Plaintiff and the period of the agreement is 25 years. Admittedly the Defendant no.3 who has acquired his rights from the Defendant no.4 is agreement in support much latter to this agreement is dated 2.4.1994.

2. Mr. Kadam raised two contentions, firstly according to him the period of 25 years in the link document is subsequently inserted and if the period is

not fixed the agreement is for five years and therefore, the agreement of the Plaintiff with the Defendant no.2 is over by now and there is no illegality on the part of the Defendant no.3 in entering into the agreement after the expiry of the said period. Secondly according to Mr. Kadam the Defendant no.3 has been exploiting the rights from October, 2002 and in the circumstances looking to the balance of convenience no injunction ought to be granted to the Plaintiff. The Defendant is ready to give accounts of the transactions in respect of the film to the Court and if ultimately the Plaintiff succeeds, the Plaintiff can claim the amount.

3. Since this is a stage of considering the prayer for interim reliefs, it has to be considered whether the Plaintiff succeeds in making out primafacie case. Perusal of original agreement shows that there is a period fixed between the parties namely Plaintiff and the Defendant no.2 and since this is a link agreement the period is of 25 years goes in favour of the Plaintiff. If Plaintiff has a substantial rights for the said film on the date of the suit then any act done by the Defendant no.3 pursuant to his agreement on 2.4.1994 is illegal and in breach of the terms of the agreement with the Plaintiff resulting in irreparable loss. I do not find any force in the argument that the Defendant will submit the accounts to the Court or to the Plaintiff.

Therefore, in the circumstances looking to the original agreement and the period it has to be held that the Plaintiff has succeeded in making primafacie case therefore, there will be an interim order interms of prayer clause (a). Prayer clause (b) is not pressed.

4. Motion is disposed of. Mr. Kadam waives service in the Motion.

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